

U.S District Judge Benjamin H. Settle

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CHRIS ADAMSON, an individual;
JASON BRAY, and individual; LUCAS
COLE, an individual; SHAUN DARBY,
an individual; CYNTHIA FAJARDO, an
individual; JAMES MAAS, an individual;
DARRIN RAYNER, an individual;
ELIZABETH REIGLE, an individual;
RYAN OLIVAREZ, an individual,

Plaintiffs,

vs.

PIERCE COUNTY, a local government;
PIERCE COUNTY DEPUTY
PROSECUTING ATTORNEYS JAMES
SCHACHT AND FRED WIST, officially
and individually; SHERIFF PAUL
PASTOR, official and individually; and
ACTING SHERIFF AND
UNDERSHERIFF BRENT BOMKAMP,
officially and individually,

Defendants.

Case No.: 3:21-cv-05592 BHS

STIPULATED PROTECTIVE ORDER

1 1. PURPOSES AND LIMITATIONS

2 Discovery in this action is likely to involve production of confidential, proprietary, or
3 private information for which special protection may be warranted. Accordingly, the parties
4 stipulate to and petition the court to enter the following Stipulated Protective Order. The parties
5 acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket
6 protection on all disclosures or responses to discovery, the protection it affords from public
7 disclosure and use extends only to the limited information or items that are entitled to confidential
8 treatment under the applicable legal principles, and it does not presumptively entitle parties to file
9 confidential information under seal.
10

11 2. "CONFIDENTIAL" MATERIAL

12 "Confidential" material shall include the following documents and tangible things
13 produced or otherwise exchanged:
14

- 15 A. Personnel files for Paul Pastor and Brent Bomkamp, except medical information,
16 residential address or other personal contact information, financial information,
17 social security information, and any other personal private information not relevant
18 to this action. This material will be produced for Attorney's Eyes Only as indicated
19 below.
20
- 21 B. Disciplinary files for Paul Pastor and Brent Bomkamp that involve sustained
22 matters only. This material will be produced for Attorney Eyes Only as indicated
23 below.
24

25 3. SCOPE

26 The protections conferred by this agreement cover not only confidential material (as
27 defined above), but also (1) any information copied or extracted from confidential material; (2) all
28 copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony,
29 conversations, or presentations by parties or their counsel that might reveal confidential material.
30

31 However, the protections conferred by this agreement do not cover information that is in
32 the public domain or becomes part of the public domain through trial or otherwise.
33

1 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

2 4.1 Basic Principles. A receiving party may use confidential material that is disclosed
3 or produced by another party or by a non-party in connection with this case only for prosecuting,
4 defending, or attempting to settle this litigation. Confidential material may be disclosed only to the
5 categories of persons and under the conditions described in this agreement. Confidential material
6 must be stored and maintained by a receiving party at a location and in a secure manner that ensures
7 that access is limited to the persons authorized under this agreement.
8

9 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered
10 by the court or permitted in writing by the designating party, a receiving party may disclose any
11 confidential material only to:
12

13 (a) the receiving party’s counsel of record in this action, as well as employees
14 of counsel to whom it is reasonably necessary to disclose the information for this litigation;

15 (b) the officers, directors, and employees (including in house counsel) of the
16 receiving party to whom disclosure is reasonably necessary for this litigation, unless the parties
17 agree that a particular document or material produced is for Attorney’s Eyes Only and is so
18 designated;
19

20 (c) experts and consultants to whom disclosure is reasonably necessary for this
21 litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

22 (d) the court, court personnel, and court reporters and their staff;

23 (e) copy or imaging services retained by counsel to assist in the duplication of
24 confidential material, provided that counsel for the party retaining the copy or imaging service
25 instructs the service not to disclose any confidential material to third parties and to immediately
26 return all originals and copies of any confidential material;
27

28 (f) during their depositions, witnesses in the action to whom disclosure is
29 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound”
30 (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages of
31 transcribed deposition testimony or exhibits to depositions that reveal confidential material must
32

1 be separately bound by the court reporter and may not be disclosed to anyone except as permitted
2 under this agreement;

3 (g) the author or recipient of a document containing the information or a
4 custodian or other person who otherwise possessed or knew the information.
5

6 4.3 Filing Confidential Material. Before filing confidential material or discussing or
7 referencing such material in court filings, the filing party shall confer with the designating party
8 to determine whether the designating party will remove the confidential designation, whether the
9 document can be redacted, or whether a motion to seal or stipulation and proposed order is
10 warranted. Local Civil Rule 5(g) sets forth the procedures that must be followed and the standards
11 that will be applied when a party seeks permission from the court to file material under seal.
12

13 5. DESIGNATING PROTECTED MATERIAL

14 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party
15 or non-party that designates information or items for protection under this agreement must take
16 care to limit any such designation to specific material that qualifies under the appropriate
17 standards. The designating party must designate for protection only those parts of material,
18 documents, items, or oral or written communications that qualify, so that other portions of the
19 material, documents, items, or communications for which protection is not warranted are not swept
20 unjustifiably within the ambit of this agreement.
21

22 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
23 shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to
24 unnecessarily encumber or delay the case development process or to impose unnecessary expenses
25 and burdens on other parties) expose the designating party to sanctions.
26

27 If it comes to a designating party's attention that information or items that it designated for
28 protection do not qualify for protection, the designating party must promptly notify all other parties
29 that it is withdrawing the mistaken designation.

30 5.2 Manner and Timing of Designations. Except as otherwise provided in this
31 agreement (see, *e.g.*, second paragraph of section 5.2(a) below), or as otherwise stipulated or
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1 ordered, disclosure or discovery material that qualifies for protection under this agreement must
2 be clearly so designated before or when the material is disclosed or produced.

3
4 (a) Information in documentary form: (e.g., paper or electronic documents and
5 deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings),
6 the designating party must affix the word “CONFIDENTIAL” to each page that contains
7 confidential material. If only a portion or portions of the material on a page qualifies for protection,
8 the producing party also must clearly identify the protected portion(s) (e.g., by making appropriate
9 markings in the margins).

10
11 (b) Testimony given in deposition or in other pretrial proceedings: the parties
12 and any participating non-parties must identify on the record, during the deposition or other pretrial
13 proceeding, all protected testimony, without prejudice to their right to so designate other testimony
14 after reviewing the transcript. Any party or non-party may, within fifteen days after receiving the
15 transcript of the deposition or other pretrial proceeding, designate portions of the transcript, or
16 exhibits thereto, as confidential. If a party or non-party desires to protect confidential information
17 at trial, the issue should be addressed during the pre-trial conference.

18
19 (c) Other tangible items: the producing party must affix in a prominent place
20 on the exterior of the container or containers in which the information or item is stored the word
21 “CONFIDENTIAL.” If only a portion or portions of the information or item warrant protection,
22 the producing party, to the extent practicable, shall identify the protected portion(s).

23
24 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
25 designate qualified information or items does not, standing alone, waive the designating party’s
26 right to secure protection under this agreement for such material. Upon timely correction of a
27 designation, the receiving party must make reasonable efforts to ensure that the material is treated
28 in accordance with the provisions of this agreement.

29 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

30 6.1 Timing of Challenges. Any party or non-party may challenge a designation of
31 confidentiality at any time. Unless a prompt challenge to a designating party’s confidentiality
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1 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
2 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to
3 challenge a confidentiality designation by electing not to mount a challenge promptly after the
4 original designation is disclosed.
5

6 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute
7 regarding confidential designations without court involvement. Any motion regarding confidential
8 designations or for a protective order must include a certification, in the motion or in a declaration
9 or affidavit, that the movant has engaged in a good faith meet and confer conference with other
10 affected parties in an effort to resolve the dispute without court action. The certification must list
11 the date, manner, and participants to the conference. A good faith effort to confer requires a face-
12 to-face meeting or a telephone conference.
13

14 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court
15 intervention, the designating party may file and serve a motion to retain confidentiality under Local
16 Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of
17 persuasion in any such motion shall be on the designating party. Frivolous challenges, and those
18 made for an improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on
19 other parties) may expose the challenging party to sanctions. All parties shall continue to maintain
20 the material in question as confidential until the court rules on the challenge.
21

22 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
23 LITIGATION
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25 If a party is served with a subpoena or a court order issued in other litigation that compels
26 disclosure of any information or items designated in this action as “CONFIDENTIAL,” that party
27 must:

28 (a) promptly notify the designating party in writing and include a copy of the
29 subpoena or court order;
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31
32

1 (b) promptly notify in writing the party who caused the subpoena or order to
2 issue in the other litigation that some or all of the material covered by the subpoena or order is
3 subject to this agreement. Such notification shall include a copy of this agreement; and
4

5 (c) cooperate with respect to all reasonable procedures sought to be pursued by
6 the designating party whose confidential material may be affected.

7 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

8 If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential
9 material to any person or in any circumstance not authorized under this agreement, the receiving
10 party must immediately (a) notify in writing the designating party of the unauthorized disclosures,
11 (b) use its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the
12 person or persons to whom unauthorized disclosures were made of all the terms of this agreement,
13 and (d) request that such person or persons execute the “Acknowledgment and Agreement to Be
14 Bound” that is attached hereto as Exhibit A.
15

16 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
17 MATERIAL

18 When a producing party gives notice to receiving parties that certain inadvertently
19 produced material is subject to a claim of privilege or other protection, the obligations of the
20 receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision
21 is not intended to modify whatever procedure may be established in an e-discovery order or
22 agreement that provides for production without prior privilege review. The parties agree to the
23 entry of a non-waiver order under Fed. R. Evid. 502(d).
24

25 10. NON TERMINATION AND RETURN OF DOCUMENTS

26 Within 60 days after the termination of this action, including all appeals, each receiving
27 party must return all confidential material to the producing party, including all copies, extracts and
28 summaries thereof. Alternatively, the parties may agree upon appropriate methods of destruction.
29

30 Notwithstanding this provision, counsel are entitled to retain one archival copy of all
31 documents filed with the court, trial, deposition, and hearing transcripts, correspondence,
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deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain confidential material.

The confidentiality obligations imposed by this agreement shall remain in effect until a designating party agrees otherwise in writing or a court orders otherwise.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: 04/24/2023

s/ Joan K. Mell
Joan K. Mell, Attorney for Plaintiffs


DATED: 04/21/2023

s/ Frank Cornelius
Frank Cornelius, Attorney for Defendants

PURSUANT TO STIPULATION, IT IS SO ORDERED

IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any documents in this proceeding shall not, for the purposes of this proceeding or any other proceeding in any other court, constitute a waiver by the producing party of any privilege applicable to those documents, including the attorney-client privilege, attorney work-product protection, or any other privilege or protection recognized by law.

DATED this 3rd day of May, 2023.



HON. JUDGE BENJAMIN H. SETTLE
United States District Court Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Western District of Washington on [date] in the

1 case of _____ *Adamson et al v Pierce County et al* , Fed. Dist. Ct. Case No. 3:21-
2 **cv-05592**. I agree to comply with and to be bound by all the terms of this Stipulated Protective
3 Order and I understand and acknowledge that failure to so comply could expose me to sanctions
4 and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner
5 any information or item that is subject to this Stipulated Protective Order to any person or entity
6 except in strict compliance with the provisions of this Order.
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8 I further agree to submit to the jurisdiction of the United States District Court for the
9 Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective
10 Order, even if such enforcement proceedings occur after termination of this action.
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12 Date: _____

13 City and State where sworn and signed: _____

14 Printed name: _____

15 Signature: _____
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